

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

G.G.,

Case Type: Personal Injury
Court File No. _____

Plaintiff,

and

COMPLAINT IN INTERVENTION

Rebecca Lucero, Commissioner of the
Minnesota Department of Human Rights,

Plaintiff-Intervenor,

vs.

Hyder Investments, Inc., DBA a McDonald's
Franchisee,

Defendant.

INTRODUCTION

The State of Minnesota, by Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights ("Commissioner"), brings this complaint in intervention against Defendant Hyder Investments, Inc., DBA a McDonald's Franchisee, to remedy and enjoin discrimination in violation of the Minnesota Human Rights Act ("MHRA"), Minn. Stat. ch. 363A. The Commissioner alleges that:

JURISDICTION AND VENUE

1. Plaintiff G.G.¹ brought claims against Defendant Hyder Investments, Inc., DBA a McDonald's Franchisee, under the MHRA. The Court has jurisdiction over the claims brought under the MHRA pursuant to Minn. Stat. § 363A.33, subds. 1 and 6.

¹ Because G.G. is a minor and because of the nature of the allegations, this Complaint in Intervention uses initials to refer to Plaintiff G.G.

2. Plaintiff-Intervenor Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights, has the authority to intervene in a civil action brought by a private party under the MHRA. Minn. Stat. § 363A.33, subd. 5. The Commissioner's complaint is issued pursuant to Minn. Stat. § 363A.33. The Court has jurisdiction over the Commissioner's claims, and the authority to allow the Commissioner to intervene, under Minn. Stat. § 363A.33, subd. 5, as well as Minn. R. Civ. P. 24.

3. Venue is proper in Hennepin County pursuant to Minn. Stat. § 363A.33, subd. 6. The unlawful discriminatory practices discussed herein occurred in Hennepin County.

PARTIES

4. Plaintiff G.G. is an individual who resides in Hennepin County, State of Minnesota. At all times relevant to this complaint, G.G. was a minor.

5. Defendant is Hyder Investments, Inc., DBA a McDonald's Franchisee ("Defendant" or "Hyder"). Hyder is a business corporation registered under Minn. Stat. ch. 302A. Hyder's registered office address is 1485 Kingsview Lane, Plymouth, MN 55447. Hyder's principal executive office address is 7088 E. Fish Lake Road, Maple Grove, MN 55311. Hyder's chief executive officer is Shahab Hyder.

6. Defendant operates 11 McDonald's restaurant franchise locations in the Twin Cities metropolitan area. Defendant operates a McDonald's restaurant franchise location in Maple Grove, Minnesota, located on Sycamore Lane.

7. Plaintiff-Intervenor is the State of Minnesota by Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights. The Commissioner is a state officer with the authority to administer and enforce the MHRA on behalf of the State of Minnesota. Minn. Stat.

§§ 363A.05-363A.06, 363A.28. The Commissioner heads the Minnesota Department of Human Rights (“MDHR”).

8. The Commissioner is authorized pursuant to Minn. Stat. § 363A.33 to intervene in a civil action brought by a private party under the MHRA upon certification that the case is of general public importance.

9. The Commissioner certifies that this civil action is of general public importance. MDHR seeks intervention in this lawsuit to obtain relief to ensure that Defendant ceases discriminatory practices affecting Defendant’s employees, including Defendant’s employees who are minors, and operates Defendant’s business and its McDonald’s franchise locations in compliance with the MHRA.

FACTUAL BACKGROUND

10. Defendant’s business model contemplates hiring employees with little or no prior work experience who are as young as fourteen years-old. Upon information and belief, Defendant took affirmative steps to hire young workers by targeting advertisements for employment opportunities to young, inexperienced, high school-age workers.

11. To account for the youth and inexperience of some of its workers, Defendant maintained some policies that limited when, how, and where extremely young workers could perform work at their restaurants.

12. Defendant maintained a policy prohibiting minor employees from operating grill or fried product stations and power-driven machinery. Minor employees were also not allowed to enter or work in any walk-in freezer or refrigerator, and were not permitted on Defendant’s Maple Grove restaurant’s rooftop.

13. Defendant also maintained a policy limiting working hours for minor employees. Under Defendant's policy, fourteen- or fifteen-year-old employees, such as G.G., could not work after 6:45 p.m. during a school week, and no later than 8 p.m. on a non-school day.

14. Fourteen- and fifteen-year-olds were also required to wear red hats or visors, so that they could be clearly identified by managers, supervisors, and shift leads, making it immediately apparent when a minor employee was performing a prohibited task, was in a prohibited location, or was working later than permitted.

15. Defendant maintained an employee handbook that included a policy prohibiting sexual harassment in its restaurants.

16. Defendant did not provide or disseminate its sexual harassment policy to its employees, including its minor employees. Rather, at the time employees were hired, Defendant merely had employees sign a form at or shortly after the time they were hired acknowledging they are aware of the existence of and access to the employee handbook, a copy of which was kept in each restaurant office. The sexual harassment and complaint procedure policies located in the handbook provided only vague information on where to report, and failed to provide specific phone numbers, reporting hotlines, or the names of individuals to whom employees could make reports. In fact, the phone numbers listed in the complaint procedure policy were literally "XXX-XXX-XXXX."

17. Defendant hired A.A. as a crew member at Defendant's Maple Grove McDonalds restaurant in 2017. By the middle of 2018, Defendant offered A.A. the opportunity to participate in Defendant's shift manager training program.

18. Throughout the fall of 2018 and into January 2019, A.A.'s formal title at Defendant was a shift manager trainee, also referred to as a shift lead in training. A.A. was twenty-four years-old at that time.

19. Throughout the fall of 2018 and into January 2019, A.A.'s formal responsibilities in the shift manager training program included practicing managerial skills, such as running shifts under the supervision of another manager.

20. In practice throughout fall of 2018 through January 2019, however, Defendant allowed A.A. to exercise additional managerial authority over Defendant's employees such as G.G. For example, A.A. managed employee schedules; directed the movement and work of employees in the McDonalds; occasionally worked as a shift manager without another manager present; requested that minor employees, including G.G., work later than permitted by Defendant's scheduling policies; and compensated minors, including G.G., in cash for those hours worked. A.A. thus had supervisory authority over crew members such as G.G.

21. A.A. also had apparent supervisory authority. Other employees, including a manager employee of Defendant, and parents of minor employees reasonably perceived that A.A. was a manager or supervisor, and thus was in charge of employees, including minor employees such as G.G., at Defendant's Maple Grove McDonald's restaurant.

22. Defendant hired G.G. as a crew member in August 2018 at Defendant's McDonald's restaurant in Maple Grove, Minnesota located on Sycamore Lane.

23. G.G. was fourteen years-old at the time of her hire and throughout her employment for Defendant.

24. While G.G. worked at the McDonalds, A.A. began to sexually harass G.G. and groom her for a sexual relationship. For example, A.A. flirted with G.G. both at work and via Snapchat, which he used to communicate with G.G. about her work schedule.

25. In November 2018, A.A. attempted to kiss G.G. while at work at the McDonalds. G.G. resisted, pushing A.A. away, reminding him of her age, and telling him his conduct was wrong. After she resisted, A.A. created an uncomfortable work environment for G.G. G.G. later apologized to A.A. After A.A. accepted her apology, he then kissed G.G. All of this conduct occurred during work hours at Defendant's Maple Grove McDonald's restaurant.

26. On December 9, 2018, A.A. directed G.G. to go to the walk-in refrigerator to restock product, even though Defendant's policies barred G.G. from working in that space. A.A. followed G.G. into the refrigerator. Once inside, A.A. sexually assaulted G.G. G.G. resisted but felt pressured into the sexual conduct.

27. In or around early December 2018, Defendant's department manager at Defendant's Maple Grove McDonald's restaurant, learned of a rumored relationship between G.G. and A.A. The department manager indicated that she had concerns or received concerns about A.A. and G.G.'s relationship. The department manager spoke to A.A., who denied any relationship.

28. The department manager did not speak with G.G. about the rumored relationship with A.A.

29. Upon information and belief, the department manager did not conduct further investigation into the relationship between G.G. and A.A. The department manager did not report this information to any other store management, human resources, or higher-level personnel at Defendant. The department manager also did not take any action to correct or redress the situation,

such as ensuring A.A. and G.G. no longer work together; reporting the relationship to the general manger or human resources; or notifying G.G.'s parents.

30. After A.A. sexually assaulted G.G. at work on December 9, 2018, A.A. sexually assaulted G.G. approximately seven or eight more times. All but two of the unlawful encounters occurred at Defendant's Maple Grove McDonald's restaurant. The sexual assaults at Defendant's workplace occurred in locations such as the walk-in refrigerator, the backroom or restocking area, and the rooftop.

31. On December 22, 2018, A.A. initiated unlawful sexual contact with G.G. on Defendant's Maple Grove McDonald's restaurant's rooftop. During this encounter, another shift manager opened the rooftop door and observed G.G. and A.A. on the roof. Although minor employees were not allowed to be on the rooftop, the other shift manager did not ask G.G. to exit the rooftop, and did not report the incident to any other supervisor, manager, or higher-level official at Defendant.

32. A.A.'s conduct toward G.G. was extreme, objectively offensive, severe, and unlawful.

33. G.G. suffered significant emotional distress and mental anguish as a result of the illegal and non-consensual sexual activity and the sexually hostile work environment she experienced.

34. A.A. used his actual or apparent supervisory authority to initiate and further unlawful sexual activity toward G.G., or was otherwise aided in accomplishing the illegal and non-consensual activity by the existence of his actual and apparent supervisory powers.

35. In early January 2019, G.G.'s parents learned that A.A. had repeatedly sexually assaulted G.G. On January 2, 2019, G.G.'s mother contacted local police.

36. On January 2, 2019, G.G.'s mother also informed Defendant, and in particular the general manager at Defendant's Maple Grove McDonald's restaurant, that G.G. would not be coming in for her shift that day.

37. On January 3, 2019, G.G.'s mother left a voice message with the restaurant's general manager to inform him G.G. would no longer be working at the McDonalds. The general manager called G.G.'s mother back that day and during their conversation, G.G.'s mother informed him that A.A. and G.G. had been having sexual relations.

38. Local police also contacted the general manager to obtain information about A.A., including his age and contact information, and about the McDonalds, including timekeeping information and schedules.

39. Despite being informed of unlawful sexual conduct that took place between an adult shift manager in training and a fourteen-year-old employee by the employee's mother, and despite being contacted by local police about A.A., Defendant did not take any steps to investigate the matter or question A.A. Defendant also did not take steps to protect its other employees, including its young, minor workers. Rather, Defendant allowed A.A. to continue working as scheduled and in a supervisory capacity directing the work of other employees, including minors, until January 17, 2019.

40. On January 17, 2019, local police arrested A.A. when he arrived for work at Defendant's workplace. During his arrest, police discovered A.A. had marijuana in his shoe.

41. On January 18, 2019, Defendant terminated A.A.'s employment for violating its drug and alcohol-free workplace policy.

42. Defendant did not discipline or terminate A.A. for any of his conduct toward G.G.

43. Defendant did not discipline or terminate A.A. for violating its sexual harassment policy.

44. Defendant did not discipline or terminate any other employee for failing to report, investigate, prevent, or correct A.A.'s sexual harassment of G.G.

45. In January 2019, A.A. was criminally charged with several counts of criminal sexual conduct in the first degree in violation of Minn. Stat. § 609.342, subd. 1(b). The criminal complaint alleged he was in a position of authority over his victim, who was between thirteen and sixteen years of age.

46. On November 25, 2019, A.A. pled guilty to one of the counts of criminal sexual conduct in the first degree in violation of Minn. Stat. § 609.342, subd. 1(b). A.A. was convicted of this count and sentenced on January 13, 2020. A.A. was sentenced to 120 months and a 10-year conditional release term.

47. On December 13, 2019, G.G.'s mother filed a charge of discrimination on behalf of G.G. with MDHR alleging discrimination in the area of employment on the basis of sex, in violation of Minn. Stat. § 363A.08, subds. 2(2) and (3). The charge was served on Defendant.

48. MDHR investigated the charge and on December 7, 2020, determined there was probable cause to find Defendant discriminated against G.G. on the basis of sex, that G.G. was subject to a sex-based hostile work environment during her employment with Defendant, and G.G. was constructively discharged because of her sex.

49. MDHR invited Defendant to participate in conciliation of this matter after finding probable cause. Defendant agreed to participate in conciliation.

50. On or about February 16, 2021, G.G. commenced this civil action against Defendant, thus withdrawing the charge with MDHR.

COUNT I
DISCRIMINATION IN EMPLOYMENT: SEXUAL HARASSMENT/HOSTILE WORK
ENVIRONMENT
(MINN. STAT. § 363A.08, SUBD. 2(3))

51. The Commissioner re-alleges the foregoing paragraphs and incorporates those allegations by reference.

52. Minnesota Statutes section 363A.08 states in part that it is an unfair employment practice for an employer to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment, because of sex. Minn. Stat. § 363A.08, subd. 2(3).

53. Under the MHRA, discrimination based on sex includes sexual harassment. Minn. Stat. § 363A.03, subd. 13. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when the conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creating an intimidating, hostile, or offensive employment environment. *Id.*, subd. 43.

54. A.A. repeatedly engaged in illegal and non-consensual sexual activity toward G.G. That unwelcome physical conduct of a sexual nature had the purpose and effect of substantially interfering with G.G.'s employment, and created an intimidating, hostile, and offensive employment environment for G.G.

55. A number of Defendant's employees, including at least two supervisory employees, were aware of an inappropriate relationship between A.A. and G.G., who was a minor, during G.G.'s employment. Yet Defendant did not take steps to adequately investigate, prevent, or correct A.A.'s conduct, but instead allowed him to remain in his position where he supervised minors such as G.G. Moreover, even when G.G.'s mother called another supervisory employee, the

restaurant's general manager, to inform Defendant that her daughter could no longer work there because of A.A.'s sexual conduct toward G.G., Defendant still failed to take any corrective actions to investigate or correct the conduct or to take any preventative measures to protect its other employees.

56. Defendant failed to adopt, implement, and disseminate effective policies or procedures prohibiting sexual harassment in the workplace. Knowing that it has many young teenage employees with little work experience, Defendant should have adopted, implemented, and disseminated policies to protect these employees from sexual harassment and designed those policies and procedures to be understood by the average teenager, as well as their parents or legal guardians.

57. Defendant failed to exercise reasonable care to prevent and promptly correct A.A.'s behavior. Defendant's failure subjected G.G. to an intimidating, hostile, and offensive employment environment, and substantially interfered with and affected the terms, conditions, and privileges of G.G.'s employment.

58. As a result of Defendant's actions, G.G. suffered and continues to suffer harm and damages, as alleged in this Complaint and in G.G.'s Complaint. G.G. was merely fourteen years of age at the time of her employment. She was ultimately forced to quit her employment because of the sexually hostile and offensive working environment.

COUNT II
DISCRIMINATION IN EMPLOYMENT: CONSTRUCTIVE DISCHARGE
(MINN. STAT. § 363A.08, SUBD. 2(2))

59. The Commissioner re-alleges the foregoing paragraphs and incorporates those allegations by reference.

60. Minnesota Statutes section 363A.08 states in part that it is an unfair employment practice for an employer to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment, because of sex. Minn. Stat. § 363A.08, subd. 2(3).

61. Under the MHRA, discrimination based on sex includes sexual harassment. *See* Minn. Stat. § 363A.03, subds. 3 (defining “discriminate”) and 43 (defining “sexual harassment”).

62. A.A. repeatedly engaged in illegal and non-consensual sexual activity toward G.G. That unwelcome physical conduct of a sexual nature had the purpose and effect of substantially interfering with G.G.’s employment, and created an intimidating, hostile, and offensive employment environment for G.G. In addition, the repeated illegal sexual activity created intolerable work conditions for G.G.

63. G.G. quit her employment because of the repeated sexual harassment she experienced and because she could no longer tolerate working under the conditions she experienced while working for Defendant.

64. Defendant failed to exercise reasonable care to prevent and promptly correct A.A.’s behavior. Defendant’s failure subjected G.G. to an intimidating, hostile, and offensive employment environment, and substantially interfered with and affected the terms, conditions, and privileges of G.G.’s employment. Moreover, Defendant allowed an intolerable work environment to persist in which A.A., a shift manager in training, could repeatedly engage in unlawful sexual contact with a minor employee. Defendant thus created and allowed for the hostile working conditions that would force a person in G.G.’s position to quit working. In addition, G.G.’s resignation was a reasonably foreseeable consequence of Defendant’s discriminatory actions—repeatedly subjecting a teenage employee to unlawful sexual contact and a sexually hostile work

environment. No reasonable parent or legal guardian would allow their minor child to return to a workplace knowing they had been repeatedly subjected to unlawfully sexual conduct.

65. Defendant failed to maintain adequate policies and procedures in place related to sexual harassment. Defendant did not take steps to distribute the policy to its employees or to tailor its policy to the understanding of its teenage employees. Moreover, the policy itself did not specifically identify people to whom its employees could make complaints of sexual harassment, as it did not list any specific phone numbers, hotlines, or the names of people to whom employees could make reports.

66. G.G. had to quit her employment because she could no longer work under the hostile and offensive conditions at Defendant's workplace. G.G.'s mother also reasonably would not allow her daughter to return to a sexually hostile work environment knowing that repeated unlawful sexual conduct was allowed to occur.

67. Defendant constructively discharged G.G. from her employment because of her sex, in violation of Minn. Stat. § 363A.08, subd. 2(2).

68. G.G.'s constructive discharge, based on the sexual harassment and sex-based discrimination she experienced, caused her harm as alleged in this Complaint and in G.G.'s Complaint.

REQUEST FOR RELIEF

The district court has the authority to issue any relief authorized by Minn. Stat. § 363A.29, subds. 3-6. *See* Minn. Stat. § 363A.33, subd. 6. The Commissioner, therefore, requests that the Court issue findings of fact and conclusions of law, and grant the following relief:

1. Enter an order, pursuant to Minn. Stat. § 363A.29, subd. 3, finding that Defendant has violated Minn. Stat. § 363A.08, as alleged in Counts I and II.

2. Enter an order requiring Defendant to cease and desist from engaging in practices that violate the MHRA. *See* Minn. Stat. § 363A.29, subd. 3.

3. Order Defendant to create, review, and revise Defendant's policies, procedures, and guidelines to ensure compliance with the MHRA at all of Defendant's McDonald's franchise restaurant locations, and to ensure such policies are effective; and to submit copies of any new or revised policies, procedures, and guidelines to the MDHR Commissioner for review. *See* Minn. Stat. § 363A.29, subd. 3.

4. Order Defendant's employees at all of its McDonald's franchise restaurant locations, including but not limited to managers, supervisors, shift leads, shift leads in training, and its minor employees, to undergo training on sex discrimination and sexual harassment that is approved by the MDHR Commissioner. *See* Minn. Stat. § 363A.29, subd. 3.

5. Order Defendant to retain an ombudsperson with oversight of all of Defendant's McDonald's franchise restaurant locations who will be responsible for soliciting, investigating, monitoring, and resolving complaints of employees related to the working conditions, including but not limited to complaints of sexual harassment, retaliation, or other discrimination. The ombudsperson shall have training in applicable anti-discrimination laws and have experience investigating sexual harassment complaints in the restaurant industry. The ombudsperson's selection and retention shall be approved by the MDHR Commissioner. *See* Minn. Stat. § 363A.29, subd. 3.

6. Order Defendant to submit reports to the MDHR Commissioner regarding Defendant's compliance with the MHRA, including whether any reports of harassment have been made. *See* Minn. Stat. § 363A.29, subd. 3.

7. Order Defendant to compensate G.G. in an amount up to three times the actual damages sustained, as well as punitive damages and damages for mental anguish and suffering, pursuant to Minn. Stat. § 363A.29, subd. 4. Notice is provided that reasonable damages may be greater than \$50,000, pursuant to Minn. R. Civ. P. 8.01.

8. Order Defendant to pay a civil penalty to the State of Minnesota, pursuant to Minn. Stat. § 363A.29, subd. 4(a).

9. Order Defendant to reimburse MDHR and the Attorney General's Office for all appropriate litigation and court costs expended in preparing for and conducting the hearing, pursuant to Minn. Stat. § 363A.33, subd. 7.

10. Award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

The Commissioner demands a trial by jury on all counts and issues so triable.

Dated: April 23, 2021

Respectfully submitted,

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**MINN. STAT. § 549.211
ACKNOWLEDGMENT**

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211 (2020).

Dated: April 23, 2021

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